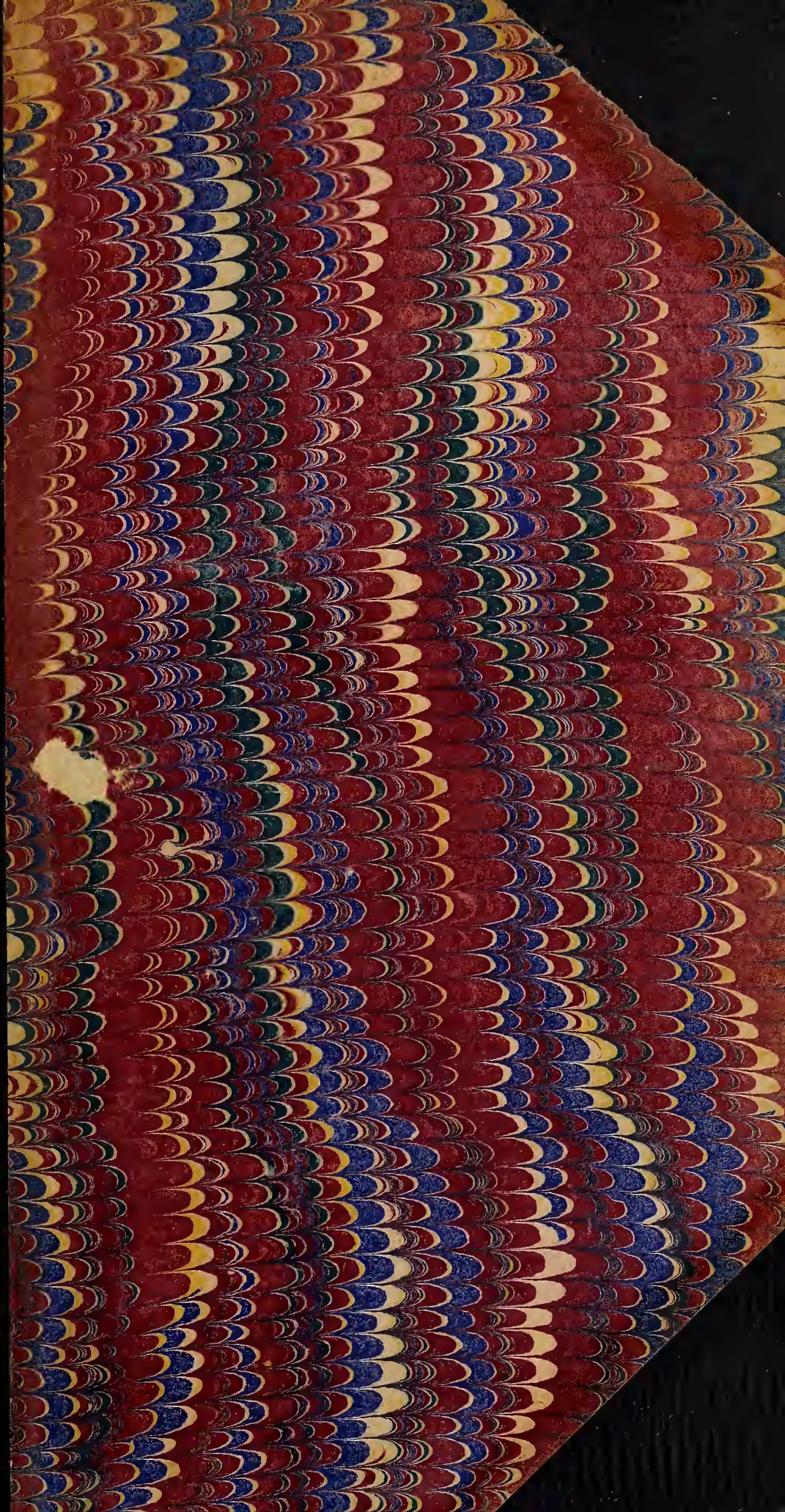


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NAVAL WAR COLLEGE,  
Newport, R. I.

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NAVAL WAR COLLEGE

# INTERNATIONAL LAW

SITUATIONS

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1899

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WASHINGTON:  
GOVERNMENT PRINTING OFFICE  
1899.



# NAVAL WAR COLLEGE.

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## INTERNATIONAL LAW.

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### SITUATIONS, 1899, WITH SOLUTIONS.

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#### SITUATION NO. 1.

Being in command of a vessel of war and senior officer present in the harbor of Chemulpo, Korea, the following circumstances take place:

A coup d'état has occurred at Seoul, the capital, distant by land about thirty miles from Chemulpo; by river about sixty miles. A marine guard has been sent to protect the United States legation at Seoul, the legation being three miles distant from the river bank.

Refugees belonging to the political party which were ousted from the palace by the coup d'état have taken refuge within the legation grounds. The legation is the property of the United States.

After a stay of some weeks, the United States minister resident proposes that you send a guard of marines to take the political refugees from the legation, escort them to Chemulpo, give them asylum on board ship, and take them to Shanghai, for which port you are about to sail.

It is believed that the lives of the refugees are in danger outside of the limits of the United States legation, and the Korean Government refuses to guarantee their safety, either as to life or liberty, outside of the legation limits, nor will they commit themselves as to an undisturbed passage of the refugees to Chemulpo.

The river is navigable for steam launches.

What is your answer to the request of the United States minister?

Upon what ground and usages do you base your reply?

SOLUTION.

This is a case which has occurred in actual service. The answer to the request should be that unless otherwise instructed by superior authority you decline to comply with the request or proposal of the minister at Seoul.

The grounds upon which this decision would rest are as follows:

1. There is no danger existing within the limits of the United States legation at Seoul to the lives of the refugees. There is a marine guard at the legation, and the force at the legation can be increased from the ship when necessary to defend the legation and protect the inmates and the property of the United States from any material injury.

2. The armed escort of Korean refugees, through Korean territory, who are in a state of revolt against the Government, against the wishes of the actual Korean Government, is a violation of their territory and an affront to their sovereignty which is not justified upon the grounds of humanity or necessity. Any encounter or loss of life resulting from such an escort would be needless and unjustifiable, as the lives of the refugees are safe while within the limits of the legation.

The privilege of asylum does not exist as a right. At best it is an exercise of humanity to suppliants who are in danger of their lives. Such humanity is here given by the shelter afforded within the legation limits. Anything like an armed protection and escort without these limits partakes of the nature of aggression toward the de facto Korean Government. Even the initiative of asylum is not sanctioned by our Government, and the regulations of the Navy, in Article 288, expressly states that officers of the Navy must not directly or indirectly invite refugees to accept asylum.



The printed personal instructions to the diplomatic agents of the United States in 1888 also says: "In some countries, where frequent insurrections occur and consequently instability of government exists, the practice of extritorial asylum has become so firmly established that it is often invoked by unsuccessful insurgents, and is practically recognized by the local government to the extent even of respecting the premises of a consulate in which such fugitives may take refuge. This Government does not sanction the usage, and enjoins upon its representatives in such countries the avoidance of all pretexts for its exercise. While indisposed to direct its agents to deny temporary shelter to any person whose life may be threatened by mob violence, it deems it proper to instruct its representatives that it will not countenance them in any attempt to knowingly harbor offenders against the laws from the pursuit of the legitimate agents of justice."

#### SITUATION NO. 2.

During a war in which the United States is engaged, you are sent as boarding officer to visit, examine, and act upon the question of detention and seizure of vessels under the following circumstances:

A. The vessel is, apparently, a British and neutral merchantman, with log books, shipping articles, muster roll, and the necessary papers concerning the cargo, which is sugar belonging to the enemy, shipped in Barbadoes for London. There is no certificate of registry or other paper evidence of nationality, except a pass enabling the vessel to go from Barbadoes to London.

Do you detain the vessel or let her pass on?

B. You board a distilling ship with large storage tanks filled with water which, from what you can gather, is to supply the boilers of a large fleet of the enemy, said to be cruising in your vicinity. The ship is under neutral flag, with plain evidence of neutral ownership and registry. There is no charter party

shown, and the master states even if his destination is to an enemy, and his cargo of water considered contraband, he will free himself by pumping the water overboard and proceed, if allowed, either under convoy or otherwise, to the nearest port of his own country. You are separated by night and bad weather from your own ship. An American port and the port of the neutral ship are both near by. You are strong enough to hold and seize the steamer.

To which port do you go, what action do you take, and why?

C. While to the westward of St. Thomas, you board a steamer of enemy build, name, and crew, but under English flag. Upon investigation you find that the vessel had left a home European port of the enemy, under the enemy's flag, bound for an island of the enemy, but upon arrival at St. Thomas orders by cable had been sent to master and agents of the ship to transfer by sale both ship and cargo to an English branch house in St. Thomas, who then placed the steamer under English flag by consular authority. Papers were found to be regular, and the port destination had been changed at St. Thomas to Nassau, N. P. The cargo consisted of provisions, dry goods, wines, and liquors.

What action do you take in this case? and state the authority for such action.

#### SOLUTION.

##### A.

All merchant vessels should have a paper showing their national character in order to have a proper legal standing. Great Britain requires a certificate of registry as an evidence of the nationality of her merchant vessels. Provisional certificates are allowed, however, covering a period of six months. A pass granted to a vessel before registration enabling her to go from one British port to another within the British dominions has also the force of a certificate of registry.

We must accept the requirements that each State prescribes as to the proper papers and evidence of nationality for their own vessels.

It is to be presumed that the vessel boarded in the case marked A has not had full registration, and hence the pass found serves the place of the certificate of registry, the voyage of the vessel being from one British port to another. The vessel should be allowed to go free. (See Appendix No. 2, page 171, Manual of International Law, Naval War College, 2d edition.)

#### B.

The distilling ship should be seized as a vessel engaged in the service of the enemy, notwithstanding the neutrality of her nationality. She is presumably engaged in unneutral service, and, as such, both the ship and cargo are subject to adjudication, condemnation, and confiscation. Hence she should be sent to the American port near by.

Modern naval warfare has given rise to increased and complex needs for the ships engaged in active service. The use of fresh water for the boilers is a very important matter, contributing largely to the long life of steam generators and to their efficient condition. The status of a ship used for this purpose is the same as that of a collier or general supply ship. The absurdity of condemning the cargo alone—as if she were a carrier of a contraband article (water) only—is evident. It is not the contraband character of her cargo but the general service of the vessel with her peculiar fittings that makes her so valuable as an auxiliary to the fleet of the enemy in whose service she is practically included.

T. J. Lawrence, in *The Principles of International Law*, page 625, says with respect to such service: “Assistance of this kind goes beyond the ordinary offices of friendship and humanity. It amounts to a participation in the war and is regarded as such by the combatant who suffers from it.”

The same author says, on page 629: "The exigencies of warfare are so numerous and so changeful that no one can describe beforehand every possible mode in which a neutral ship may make herself into a transport in the service of one or the other of the belligerents. The principle of the law is clear. It forbids any approaching to an actual participation in the war. The application of the principle must be settled in each case as it arises. Among the acts which it assuredly covers we may mention transferring provisions, coals, or ammunition from one belligerent ship to another at sea, and showing the channel to a fleet advancing for a hostile attack."

There should be sufficient evidence to justify the opinion that the distilling ship is in the continuous or present employ of the enemy as an auxiliary to its hostile operations and to its fleet. The absence or withholding of the charter party bears upon this point. If there seems to be sufficient doubt as to the matter, i. e., whether the service was a single one and is concluded, or whether, on the other hand, the ship's services were duly secured for an operation or campaign, the neutral ship is entitled to its benefit and should be released. If, however, there is good reason to believe that she is employed in the enemy's service, then, as Mosely says, "A friend's ships in a foe's service are foes."

One of the latest and best authorities on the laws and usages of neutrality, M. Richard Kleen, says in *Lois et Usages de la Neutralité*, 1898, vol. 1, page 470, paragraph 107: "Est interdit le transport d'objets nécessaires d'une nature quelconque même non de contrebande, effectué systématiquement pour le compte d'un belligérant, en vertu d'une convention spéciale conclue avec son gouvernement ou ses autorités, et en vue de pourvoir à ses besoins de guerre sur le théâtre des hostilités."

And as to the penalty, in paragraph 110, page 475, the same author states that "Au contraire, un navire



placé au service d'un belligérant devient son agent, directement impliqué dans le délit. La confiscation ne dépend pas ici de la quantité des objets transportés, puisque c'est l'acte et non l'objet qui confère le caractère hostile au moyen de transport. Quand des articles de contrebande sont confisqués eux seuls, il y a proportion exacte entre le secours illégitime et sa peine. Par contre, la confiscation d'une dépêche, l'arrestation d'une personne, ne seraient pas une punition suffisante, proportionnée à la transgression commise par un navire servant l'ennemi."

Mr. T. A. Walker, in his work on the Science of International Law, 1893, on page 262, says: "The responsibilities of the enemy character may attach to a neutral in yet another fashion. Should a neutral vessel be employed in any special service for a belligerent, should it, for example, be subsidized for the willing conveyance of despatches, or hired for use as a transport, it may well be visited with condemnation at the hands of the opposing belligerent."

Finally, Sir Sherston Baker says, in the latest work on International Law, on page 305, paragraph 12, that "If a neutral vessel is captured while in the employment of the enemy or his officers for the purposes immediately or mediately connected with the operations of war, the owner is never permitted to assert his claim. The nature of the service or employment is very justly deemed, in such a case, conclusive evidence of its hostile character. While thus employed, the neutral vessel is as truly a vessel of the enemy as if she were such by documentary title; and the owner is not allowed, for his own protection, to divest her of the character which she has thus assumed. Nor will the prize court listen to the plea that the vessel was impressed into such service by duress and violence."

### C.

This is a case of what is generally known as transfer in transit. Under the circumstances such transfer

cannot be recognized as legal, and the right to carry a neutral flag is more than questionable. The vessel should be sent in as a prize to the most convenient port.

As the change appears to have been made without change of crew or officers, that fact alone throws doubt upon the genuine character of the transfer.

In the Manual of International Law, issued by the War Collège, on pages 101, 102, is found the following: "According to the rules of the English and American prize courts, property hostile at the time of shipment can not change its character during transit by a sale to a neutral." Although this reference is made to property in general, there is no reason why a transfer of ship property in transit should not also be considered as colorable and done with a view to evade the possibility of capture, and hence a fraud on belligerent rights as they now exist.

In the fourth edition of Hall, on page 526, it is stated: "By English and American custom all sales during war of property in transitu are bad unless the transferee has actually taken possession, the probability that they are fraudulently intended being thought to be so high as to amount to a practical certainty. In the words of Lord Stowell, 'If such a rule did not exist, all goods shipped in the enemy's country would be protected by transfers which it would be impossible to detect.'"

As to vessels, Hall says, on page 525: "In England and the United States, on the contrary, the right to purchase vessels is in principle admitted, they being in themselves legitimate objects of trade as fully as any other kind of merchandise, but the opportunities of fraud being great, the circumstances attending a sale are severely scrutinized, and a transfer is not held to be good if it is subjected to any condition or even tacit understanding by which the vendor keeps an interest in the vessel or its profits, a control over it, a

power of revocation, or a right to its restoration at the conclusion of the war."

Ferguson, on page 367, Manual of International Law, vol. 2, says: "It has been held by British courts of prize that ships, like goods (115, rule 5), can not change their character in transitu. This rule applies also in cases where the sale is ostensibly absolute, but the vessel continues under the control and management of her former owner and in the same trade and the navigation in which she was previously employed, or where the neutral vendee, although residing himself in a neutral country, continues to employ the vessel in the hostile trade to which she belonged. These circumstances are deemed conclusive evidence of a fraudulent intent to cover; under the name of a neutral, the property of an enemy, and the contract is considered to be invalid, because the sole object of the transfer would appear to be to enable the vessel to carry on the enemy's trade without the liabilities connected therewith."

### SITUATION NO. 3.

A. A war exists between the United States and a European power. You are in command of a cruiser of the first class and a force of smaller vessels, and have instructions to establish a strict blockade of an enemy's port, situated upon a small island in the West Indies, which is connected by cable with two adjoining islands belonging to a neutral (Black) power. By cutting the cable, you break an important through cable communication; by not cutting or interrupting it the blockaded port has an uninterrupted communication with the home country of the enemy and with various detachments of the naval force of the enemy. Black protests violently against any interruption of the cable communication. Absence of communication requires independent action upon your part.

What do you do and upon what grounds?

B. Black being a neutral power but sympathetic with the enemy, sends a man-of-war through the blockade,

ignoring your signals and boat, and without making or receiving any communication. His flag alone is flying.

What action do you take upon a repetition of this movement in coming out of port?

Explain the grounds for your action.

#### SOLUTION.

##### A.

Under the circumstances, as given in the situation, the enemy is in constant communication and touch with the home country, and with other naval forces which might be brought against the blockading force under your command. The military disadvantages of allowing this is evident. The belligerent right of cutting this means of communication is undoubted. It might be well if the cable was of sufficient importance as a general line of telegraphic communication to allow the cable to be spliced so that the through communication may be kept up; this, however, is not obligatory and is only a matter of convenience and courtesy.

You then have a right to cut the cable from the port under blockade as a military necessity, isolating the enemy from communication with the outside world, as a part of the blockade, which itself isolates the enemy's port from commercial communication.

Article XV of the convention of Paris, of which the United States was a party, with respect to telegraphic cables, reads as follows (Proceedings United States Naval Institute, "Submarine Telegraph Cables in time of War," page 452): "It is understood that the stipulations of this convention shall in nowise affect the liberty of belligerents."

Concerning this article, Dr. Macdonell, an English lawyer of recognized standing, in a recent lecture, says:

"Article XV of the Submarine Cable Convention expressly reserves the rights of belligerents, which, I



take it, includes cutting or injuring any cable likely to be useful to an adversary, however injurious such interruption may be to neutrals. This is confirmed by referring to the procès verbal of the proceedings. I find that the Belgian delegate, M. Orban, stated that, 'As he read the Article, the text recognized the liberty of action of the belligerent, and, by implication, his right to cut submarine cables, even those that land on neutral soil.' Another representative at the conference gave formal intimation, at an early stage in the proceedings, that the convention for the protection of submarine cables should have no application except in time of peace. At the time of signing the convention, Lord Lyons presented a declaration in the name of the English Government to the following effect: 'Her Majesty's Government understand by Article XV that in time of war a belligerent power which has signed the convention will be as free to act in regard to submarine cables as if the convention did not exist.' M. Orban, the Belgian delegate, added a declaration to the same effect: 'The Belgian Government, by the medium of its delegates at the conference, has maintained that the convention had no effect on the rights of belligerent powers; these rights would be neither more nor less extensive after the signing of the convention than before.'

"There is little doubt that it was the opinion of the signatories of the convention of 1884 that a belligerent might freely cut submarine cables—might, for example, sever the connection between England and her colonies and foreign possessions without just cause of offense."

In the same article, page 454, is the following: "This service is in the nature of both an evasion of a blockade and what has been termed of late years of unneutral service. It does not matter in this phase whether the cable be privately or state owned so far as the technical offense is concerned, though the gravity and consequence are naturally much more serious in the

latter case. Let us take as an instance the case of a blockaded or besieged port, as Havana and Santiago were during the late hostilities. The communication of information or of dispatches, or means of assistance which can be made by such means, is an unneutral service, and would resemble also the violation of a blockade by a neutral vessel carrying dispatches, the capture of which upon the high seas outside of territorial jurisdiction would be a justifiable and indisputable act of war.

“Extend this to a country or port not blockaded or besieged and you would yet find the cable, owned, let us presume, by a neutral, the means of performing the most unneutral kind of service of a nature which, done by a ship, would most properly cause its seizure, condemnation, or destruction by the offended belligerent.”

Perels, in his *Manual of Maritime International Law*, translated into French by M. L. Arendt, quoting M. Renault, gives the following hypothesis: “(a) Si le cable relie deux points du territoire d’une seule et même puissance belligérante. Dans ce cas, l’autre belligérant a le droit d’arrêter les communications télégraphiques et de détruire le cable.

“(b) Le cable relie les territoires des deux belligérants. Dans ce cas également, rien ne restreint leur liberté d’action.

“(c) Le cable relie le territoire d’un belligérant et d’un neutre. Le belligérant dont il s’agit peut alors arrêter les communications sur son propre territoire; et si l’autre belligérant réussit à s’emparer de ce territoire, il peut également détruire le cable cela lui convient. Il en est de même lorsque ses croiseurs bloquent un port ennemi. M. Renault s’abstient de trancher la question de savoir si la destruction serait permise dans d’autres hypothèses, par exemple, pour prévenir un échange de dépêches s’opérant au profit de l’adversaire, de ou vers la frontière du neutre. Mais il ne doute pas, avec pleine raison selon nous, que le belligérant,

s'il a des motifs de craindre que l'on use des moyens de communication existants pour faciliter les opérations militaires de l'ennemi, en prendre prétexte pour rompre ces moyens de communication."

## B.

The action of Black in this matter is a gross want of courtesy and a violation of the rights of a belligerent. The blockade is against all vessels, and men-of-war of a neutral country are only allowed, according to the best authorities, to enter by courtesy. This entry should be asked for, and, if no sufficient reason to the contrary exists, should be given. There should also be some knowledge of the character of the neutral vessel; although the flag is *prima facie* evidence, this may be used as a subterfuge, as in the case of the entry of the *Florida* in the harbor of Mobile during the civil war, the English flag being displayed upon the approach of the *Florida* to the blockading force, the deception being partly successful. Under the circumstances guns could be fired directly at Black when she passed in to the blockaded port. When Black comes out, extreme measures could be rightly taken even to the prevention of Black leaving the port or passing out. The circumstances of the war and the tension existing would govern the senior officer of the blockading force as to the amount of force to be exercised.

## AUTHORITIES.

Manual of International Law (Naval War College), on pages 157 and 158, says: "Usage permits, upon request, this entry on the part of a neutral man-of-war, and unless it interferes with the military or naval operations there seems to be no good reason to forbid it. Our own usage has almost invariably been in favor of this entry both to others and for ourselves, but it can not be said to have become more than an act of courtesy, subject to refusal in case of an abuse of the

privilege, from military necessity, or a doubt as to the character of the applying vessel."

Ortolan, volume 2, page 329 (*Diplomatie de la Mer*), says: "En droit, l'accès et la sortie de ce lieu sont interdits aussi bien aux bâtiments de guerre qu'à ceux de commerce.

"'Très-certainement,' a écrit M. Wheaton, 'le droit de visite ne peut être exercé sur un bâtiment de guerre, mais il n'est pas moins certain qu'un tel navire n'a pas le droit d'entrer dans un port bloqué ni d'en sortir, à moins qu'il n'y fut déjà à l'époque ou a commencé le blocus.' Néanmoins, la puissance tenant le blocus affranchit souvent de la règle les bâtiments de guerre en raison du caractère dont ils sont revêtus et des privilèges dont ils jouissent, et cette concession qu'exigent les égards dus aux gouvernements neutres doit, comme l'indique aussi M. Wheaton, être faite toutes les fois qu'elle peut se concilier avec l'objet de la guerre (1). Les États Unis depuis le commencement de leur lutte actuelle contre les états confédérés, laissent l'entrée et la sortie des ports qu'ils bloquent libres aux navires de guerre des neutres (1)."

Perels says, on page 293: "La fermeture de la place bloquée doit être respectée par les navires de guerre et de commerce neutres; il n'est pas rare cependant que les navires de guerre neutres soient exceptes de la prohibition d'entrer. Les égards auxquels ont droit les puissances neutres justifient d'autant plus cette concession qu'elle ne porte aucune atteinte au but essentiel du blocus, qui est la suspension des relations commerciales par mer. C'est ainsi que, pendant le blocus des côtes des états confédérés par la flotte de l'Union, tous les navires de guerre neutres y eurent libre accès. Le Gouvernement Français avait adopté une règle contraire en 1838, lorsqu'il fit mettre par sa flotte, les côtes de la République Argentine en état de blocus. Le département des affaires étrangères rendit alors le décret suivant: 'Les bâtiments de guerre neutres se présentant devant un port bloqué doivent aussi



être invités à s'éloigner; s'ils persistent le commandant du blocus a le droit de s'opposer à leur entrée par la force, et la responsabilité de tout ce qui peut s'en suivre pèsera sur les violateurs du blocus.'"

Ferguson says, in article 276, page 486, volume 2: "During the continuance of the state of blockade no vessels are allowed to enter or leave the blockaded place without special license or consent of the blockading authority. Public vessels or vessels of war of neutral powers are all equally bound by the same obligation to respect the blockade." When the public vessel of a neutral state is allowed to have communication with a blockaded place, the neutral commanding officer is obliged to observe strict neutrality and to comply with the conditions under which such permission has been granted to cross the lines of the blockading belligerent. The impartiality, which must be the prevailing feature of an effective blockade, prohibits that, except to public vessels, permission to enter the blockaded place be given than in extreme cases of positive necessity. Diplomatic agents and consular officers of a neutral state are also allowed the amount of communication necessary for the fulfillment of their official duties."

#### SITUATION NO. 4.

A European vessel anchored in the Providence River, below the city, takes in a cargo of arms and ammunition for Venezuelan insurgents, and is regularly cleared in this respect for La Guayra, Venezuela, which is in the temporary possession of the insurgents, who are not as yet recognized by us as belligerents.

After getting the necessary clearance papers a body of men, uniformed, apparently organized and officered, but not under arms, are taken on board the steamer at the last moment, and the ship sails for La Guayra.

You are at the time in command of a vessel, the *Hudson*, at anchor in the outer harbor of Newport, R. I. You receive orders from the Commandant of the Naval Station to carry out the telegraphic orders just

received by him from the Department, which read as follows: "Send *Hudson* to intercept and bring back steamer *Hohenzollern*, if sailed from Providence; if not overhauled within limits of waters of United States, follow her and act in accordance with usages of international law, finally proceeding to Hampton Roads."

Not having steam up in the *Hudson*, the *Hohenzollern* succeeds in getting out of the West Passage as you are getting under way, and a chase follows in which you lose her by nightfall.

About 10 o'clock the next morning, a long distance offshore, you sight her steaming leisurely to the southward.

What action do you take under the circumstances, and upon what grounds?

What action would you have taken if you had overhauled her at a distance of ten miles offshore when in continuous pursuit, and upon what ground?

#### SOLUTION.

The vessel should be conducted to a port of the United States for a violation of the municipal law.

As the continuity of the chase is kept up through the night and the disappearance of the vessel is due to the fact of darkness alone, it is only proper to consider the vessel as having been continuously pursued since her violation of the municipal law.

The arrest of the vessel, if found within 10 miles of the coast, is authorized by usage, as she has been continuously pursued for a violation of municipal law within the territorial waters of the United States.

This usage, it is true, conflicts with the general practice and rule of the nonterritoriality of the high seas. This doctrine and principle is none the less existing, but by usage founded upon the courtesy and comity of nations, and with their tacit, if not expressed, consent. Vessels violating their municipal laws and their dignity are not freed from pursuit and arrest by crossing the

imaginary line which defines the 3-mile limit or marine league. A wanton defiance of revenue and other municipal laws is thus prevented.

#### AUTHORITIES.

Bluntschli, in *Le Droit International Codifié*, Lardy, translator, says on page 206, article 342: "Lorsque l'équipage du navire a commis un délit à terre ou dans les eaux faisant partie du territoire d'un autre état, et qu'il est poursuivi par la justice de cet état les poursuites peuvent être continuées contre ce navire en dehors des eaux qui font partie du territoire et jusque dans la mer libre.

"Mais lorsque le navire a échappé aux poursuites, il ne peut plus être attaqué en pleine mer par les navires de l'état lésé."

Perels says, on pages 70 and 71: "I. Les navires de guerre et de commerce, lorsqu'ils se trouvent en pleine mer, c'est-à-dire en dehors des eaux territoriales, sont, en principe, soumis à la juridiction et aux autorités nationales.

"II. Ce principe, qui n'est pas contesté, souffre deux exceptions.

"(1). On admet la poursuite même en dehors de la mer territoriale, d'un navire dont l'équipage s'est rendu coupable d'un crime sur le territoire continental ou maritime."

Hall, in the fourth edition, page 266, paragraph 80, says: "It has been mentioned that when a vessel or some one on board her, while within foreign territory, commits an infraction of its laws she may be pursued into the open seas, and there arrested. It must be added that this can only be done when the pursuit is commenced while the vessel is still within the territorial waters or has only just escaped from them. The reason for the permission seems to be that pursuit under these circumstances is a continuation of an act of jurisdiction which has been begun, or which, but for the accident of immediate escape, would have been

begun within the territory itself, and that it is necessary to permit it in order to enable the territorial jurisdiction to be efficiently exercised. The restriction of the permission within the bounds stated may readily be explained by the abuses which would spring from a right to waylay and bring in ships at a subsequent time, when the identity of the vessel or of the persons on board might be doubtful."

Finally, among the rules proposed and formulated by the Institute of International Law in 1894 was one declaring that in case of an offense committed within the jurisdiction of a territorial power it might continue a pursuit upon the high seas commenced in its waters; but the right to follow and capture a vessel was to cease upon the pursued vessel gaining a port of a third power or one of its own country.











